

From: [Gloria-Small Moran](#)
To: [Richard Bergner](#)
Cc: [Stephen Halasz](#); [Rafael Casanova](#); [Gary Moore](#)
Subject: RE: Falcon Refinery Superfund Site - Reminder - Reimbursement Past Due - REPLY -REPLY
Date: 02/10/2010 06:28 PM

Hello Dick:

Thank you for your email. It is unfortunate that NORCO has declined to pay EPA's reimbursement as requested in the letter dated 12/14/09 and that stopped all work required under the Removal AOC and RI/FS AOC. You cite NORCO's current financial condition as the reason for these failures. While you indicate that you "should have a better handle...within the next two weeks...", Region 6 must have additional information sooner in order to facilitate our next steps as it involves the reimbursement request and the work under the AOCs.

Failure To Reimburse EPA Timely and Work Stoppage under the Removal AOC and RI/FS AOC

In accordance with the Removal AOC and RI/FS AOC (paragraph 76), please provide in writing within seven days of receipt of this email the reasons for the delay (a full explanation); the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to mitigate or minimize the delay; and the other factors in Paragraph 76 of the RI/FS AOC.

Potential Sanctions

EPA may pursue stipulated penalties for the failure to reimburse timely and the work stoppages under the Removal AOC and RI/FS AOC.

In accordance with the RI/FS AOC, the NPL listing was suspended by EPA. EPA could proceed to list the Site on the NPL as provided in this AOC.

EPA could seek access to the letter of credit.

Of course, Region 6 believes that, as the responsible party, NORCO should pursue all options to complete the removal action, come into compliance with RI/FS AOC, and comply with the reimbursement request.

If you have any questions, please contact me.

Thank you,

Gloria Moran
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Superfund Branch (6RC-S)
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▼ RE: Falcon Refinery Superfund Site - Reminder - Reimbursement Past Due

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Richard Bergner to: Gloria-Small Moran

02/10/2010
11:00 AM

Cc: "Stephen Halasz"

Gloria:

I regret to advise that National Oil Recovery Corporation is not financially able at this time to respond to the EPA's sixth SCORPIOS replenishment request. Additionally, the same financial restraint precludes National Oil Recovery Corporation from continuing on with the next phases of the work to be done under the two Administrative Orders On Consent.

I have advised Mr. Halasz of National Oil Recovery Corporation's current financial condition and he has curtailed Kleinfelder's clean-up activities at the refinery.

National Oil Recovery Corporation has been in negotiations to sell the refinery, and had anticipated arranging from the sale proceeds for its remaining financial requirements under the AOC's. It was anticipated that these negotiations would reach fruition and the refinery sold prior to the end of calendar year 2009. Unfortunately, the hoped-for closing did not happen, although negotiations are still pending between the purchaser and sale parties.

I should have a better handle on whether it's a go or no go for the sale of the refinery within the next two weeks and whether National Oil Recovery Corporation will be able to continue on with its financial obligations under the AOC's aside from its two financial assurance letters of credit.

Richard F. Bergner

From: Moran.Gloria-Small@epamail.epa.gov [mailto:Moran.Gloria-Small@epamail.epa.gov]
Sent: Monday, February 08, 2010 3:35 PM
To: rbergner@rfblaw.net
Cc: Casanova.Rafael@epamail.epa.gov; Allen.Philip@epamail.epa.gov; Sanchez.Carlos@epamail.epa.gov; Shalasz@kleinfelder.com
Subject: Falcon Refinery Superfund Site - Reminder - Reimbursement Past Due

Hello Dick:

I hope this email finds you well. I am writing to remind you that the reimbursement sought in the Falcon Refinery case is past due. EPA's letter dated 12/14/09 requested reimbursement in the amount of \$112,909.39 to replenish Special Account #2 for the RI/FS. Our records indicate that the notice was received on 12/28/09. As provided in the AOC for the RI/FS, \$25,000 was due to EPA within 10 days of receipt of notice and \$87,909.39 was due within 20 days of the notice receipt. Please direct these amounts to be remitted to EPA expeditiously.

Please contact me with any questions that you may have.

Thank you,

Gloria Moran
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